Calendar No. 960

100TH CONGRESS
2d Session

SENATE

REPORT
100-525

SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

SEPTEMBER 22 (legislative day, SEPTEMBER 7), 1988.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 252]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 252) to establish the San Pedro Riparian National Conservation Area, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, line 6, strike "dated July 1986, comprising approximately 48,707 acres." and insert "numbered AZ-040-02, dated January 1988, and consisting of approximately 56,431 acres.".

2. On page 3, line 20, strike all of subsection (c), and redesignate subsection (d) as (c).

3. On page 4, after line 9 insert a new subsection to read as follows:

> (d) WATER RIGHTS.—Congress reserves for the purposes of this reservation, a quantity of water sufficient to fulfill the purposes of the San Pedro Riparian National Conservation Area created by this Act. The priority date of such reserved rights shall be the date of enactment of this Act. Such rights shall be perfected in the ongoing general stream adjudication now pending in the Superior Court of the State of Arizona and to which the United States has been joined pursuant to the McCarran Amendment (43 U.S.C. 466).

19-010

S313-58

PURPOSE OF THE MEASURE

The purpose of S. 252 is to establish the San Pedro Riparian National Conservation Area in the State of Arizona.

BACKGROUND AND NEED

S. 252 would establish the San Pedro Riparian National Conservation Area, to be managed by the Bureau of Land Management, in order to protect the riparian area of the San Pedro River in Cochise County, Arizona, and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the affected public lands.

The San Pedro River represents a uniquely long stretch of desert riparian habitat in good condition and contains other significant attributes which enhance its importance as a public resource. The river is frequented by an outstanding diversity of wildlife, including more than 20 bird species. It serves as a corridor for the entrance of many Mexican species into the area, including raptors such as the gray hawk, Harris hawk, zone-tailed hawk, black hawk, and aplomado falcon, which are only rarely seen in the United States.

This area also includes more than 120 archeological and historic sites. These include important 11,000 year-old Paleo-Indian sites, Native American sites dating from 7,000 years ago to historic times, the 18th-century Presidio of Santa Cruz de Terrenate, the site of the Mexican War's Battle of the Bulls, and several 19th-century ghost towns and mill sites. These sites provide unique opportunities for interpretation as well as for research.

In March 1986, the Bureau of Land Management of the Department of the Interior acquired this area through exchange. The purpose of the exchange was, as stated by the Bureau at that time, "to place in public ownership high-value natural resources" of the area. This bill is intended to provide a mandate for the protection and enhancement of these resources and the other values of the area.

LEGISLATIVE HISTORY

S. 252 was introduced on January 6, 1987. The House companion, H.R. 568 passed the House on March 25, 1987. The Subcommittee on Public Lands, National Parks and Forests held hearings on both measures on April 30, 1987.

At the business meeting on Thursday, September 15, 1988, the Senate Committee on Energy and Natural Resources ordered S. 252, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on Thursday, September 15, 1988, by a majority vote of a quorum present, recommends that the Senate pass S. 252 if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 1 nay, as follows:

YEAS	NAYS
Mr. Johnston	Mr. Bradley*
Mr. Bumpers	
Mr. Ford*	
Mr. Melcher	
Mr. Bingaman*	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski*	
Mr. Nickles*	
Mr. Hecht	
Mr. Evans	

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

During consideration of S. 252, the Committee adopted three amendments.

Additional acreage

Since S. 252 was introduced, the Bureau of Land Management has acquired additional acreage in the area of the San Pedro River. The Committee therefore added approximately 8,000 acres to the original proposal, which would bring the total acreage of the proposed conservation area from 48,707 acres to 56,431 acres.

Grazing

The Committee deleted language in the bill as introduced that would have directed the Secretary not to permit grazing in the conservation area for a period of 15 years. However, the Committee notes that none of the conservation area is currently leased for livestock grazing. The prior owners had leased some of the lands in the conservation area for livestock grazing, but all of those leases have now expired and the BLM has not renewed any of them. The Committee believes that this is appropriate, and further believes that no new grazing leases should be issued in the conservation area.

The continued absence of livestock in this area would significantly add to the scientific value of the conservation area by providing a large riparian area, for study, evaluation, and monitoring of the natural conditions without the influence of grazing by domestic livestock.

Water rights

The Committee also added a new subsection to the bill which asserted a reservation of water sufficient to fulfill the purposes of the San Pedro Riparian National Conservation Area.

In making a determination to include language expressly reserving water for the San Pedro Riparian Area, the Committee has taken into account the hydrologic circumstances and water regime of this area. The San Pedro River originates in Mexico and flows north into the United States eventually joining the Gila River. Currently there are no upstream appropriators of surface water after the river enters the United States. The BLM has acquired the water rights to some 31 groundwater irrigation wells in this riparian area. The BLM has also applied for an instream flow right pursuant to Arizona State law. However, while instream flow rights have been granted under Arizona State law, such rights have never been tested in the courts as to their validity or scope. In addition, the San Pedro River is currently part of a general stream adjudication to which the United States has been joined pursuant to the provisions of the McCarran Amendment (43 U.S.C. 466).

Because of the bill sponsors' desire to establish strong Federal protections for the water resources of this area, the Committee believes it is appropriate in this circumstance to create an express Federal reserved water right for the purposes of this unique riparian conservation area. The amount of water reserved is that quantity which will maintain flows, including periodic bank full discharge and periodic overbank discharge, through the riparian zone, as well as support fish and fish reproduction, birds and wildlife, and maintain the esthetic and recreational values of the Riparian Conservation Area. Prior to asserting its reserved right, the BLM shall make a determination regarding the extent to which hydrologically connected groundwater is necessary to maintain the flows described above. The priority date of the reserved water right shall be the date of this Act.

The statutory language approved by the Committee directs the Secretary to perfect the reserved right created by this legislation in the ongoing general stream adjudication pursuant to the McCarran Amendment. The Committee notes that this language is included because there is an ongoing adjudication. It is not intended as a precedent or to in any way undermine the ability of the Federal Government to obtain or perfect water rights in appropriate State proceedings other than general stream adjudications.

As noted previously, currently before the State of Arizona are applications to appropriate instream flows for the San Pedro River and its riparian area. The Bureau of Land Management is expected to pursue permits and a certificate of water right under these applications. If granted, the priority date of the State acquired right should be earlier than the reserved right. Additionally, the Bureau may dedicate any water rights, acquired in the process of additional land acquisitions, to satisfy the purposes of the conservation area. Any change in the BLM rights acquired under State law will be subject to State regulations for change of use or place of use.

SECTION-BY-SECTION ANALYSIS

Section 1 establishes a San Pedro Riparian National Conservation Area of approximately 56,431 acres in southern Arizona, as depicted on a referenced map.

Section 2 deals with management of the conservation area. It has five subsections, as follows:

Subsection (a) provides that the conservation area shall be managed by the Secretary of the Interior to conserve, protect, and enhance its resources. Management is to be guided by the bill and (where not inconsistent with the bill) by the Federal Land Policy and Management Act of 1976.

Subsection (b) allows only such uses of the conservation area as will further the purposes of the area, restrict motorized vehicle use to designated roads except for emergency and administrative purposes, and allows the Secretary to limit visitation and use of the area to protect resources.

Subsection (c) withdraws the conservation area from disposition or entry under the public land, mining, mineral leasing or geothermal leasing laws.

Subsection (d) reserves water sufficient to fulfill the purposes of the San Pedro National Conservation Area.

Subsection (e) provides penalties for violation of any provision of the bill after its enactment or of regulations promulgated to implement it.

Section 3 provides for completion of a management plan, developed with full public participation, in 2 years.

Section 4 provides for an advisory committee to advise the Secretary on development and implementation of the management plan.

Section 5 provides authority to acquire inholdings with the consent of the landowner, and precludes any condemnations.

Section 6 requires reports to the Congress from the Secretary on the implementation of this bill.

Section 7 authorizes the appropriation of such sums as may be necessary to carry out the bill's provisions.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 252. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 252, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 252 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, July 6, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 252, a bill "To establish the San Pedro Riparian National Conservation Area," and H.R. 568, a bill "To establish the San Pedro Riparian National Conservation Area in Cochise County, Arizona, in order to assure the protection of the riparian, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area, and for other purposes."

We can support these bills only if amended to better reflect the principles of multiple-use management as suggested herein.

S. 525 and H.R. 568 would establish the San Pedro Riparian Conservation Area in Cochise County, Arizona, consisting of approximately 48,707 acres of public lands depicted on a referenced map.

Section 2 would require the Secretary of the Interior to manage the conservation area in a manner that conserves, protects, and enhances the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area. Management would be guided by the provisions of S. 252 and H.R. 568 and, where not inconsistent with the bills, by the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA).

The Secretary could allow only such uses of the conservation areas he finds will further the primary purposes for which the area is established. Motorized vehicles would only be allowed on roads specifically designated for such use in the management plan required by section 3 of the bills, except for administrative and emergency purposes. Further, the Secretary could limit visitation to, and use of, the conservation area to protect its resources, require permits for public use, or close portions of the area to public use.

Section 2(c) of the bills would prohibit the Secretary, subject to valid existing contractual rights, from issuing any permit for livestock grazing on lands in the conservation area for 15 years from the date of enactment of S. 252 and H.R. 568. Section 2(d) would, subject to valid existing rights, withdraw all Federal lands within the conservation area from all forms of entry, appropriation, or disposal under the public land laws; from location, entry and patent under the U.S. mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing.

Any person who violates any provisions of S. 252 and H.R. 568 or any implementing regulations would be subject to a fine of up to $10,000 or imprisonment for up to one year, or both.

Section 3 would require the Secretary to develop a comprehensive plan for the long-range management and protection of the conservation area, within two years after enactment of this Act. The bills would require that the plan be developed with full opportunity for public participation and comment, and that it contain provisions to assure protection of the diverse values of the conservation area. In addition, the Secretary would be required, in the management plan, to develop recommendations to Congress as to whether additional lands should be included in the conservation area.

To better implement the management plan, section 3 would authorize the Secretary to enter into cooperative agreements with appropriate State and local agencies, pursuant to section 307(b) of FLPMA. Also the Secretary could authorize research on environmental, biological, hydrological, and cultural resources of the conservation area, pursuant to section 307(a) of FLPMA, in order to assist in the development of appropriate management strategies for the conservation area.

Section 4 would require the Secretary to establish a San Pedro Riparian National Conservation Area Advisory Committee to advise him on the preparation and implementation of the management plan required by the bills. The advisory committee would be composed of seven members appointed by the Secretary for three-year terms, except that for the first members appointed, two would be appointed for one-year terms, and three, for two-year terms. The Secretary would be required to appoint one member from nominations supplied by the Governor of Arizona, and one member from nominations supplied by the supervisors of Cochise County, Arizona. The other members would be required to be persons with recognized backgrounds in disciplines directly related to the primary purposes for which the conservation area was created.

Section 5 would authorize the Secretary to acquire lands or interests in lands within the conservation area by exchange, purchase or donation. The landowner's consent would be required for any purchase or exchange. Lands owned by the State or local government could be acquired only by donation or exchange.

Section 6 would require the Secretary to report to Congress five years after enactment of S. 252 and H.R. 568 and every 10 years thereafter on the implementation of the Act and to include in the report a detailed statement on the condition of the resources within the conservation area of the progress of the Bureau of Land Management (BLM) in achieving the purposes of the Act. The bills would authorize appropriations of such sums as may be necessary to carry out the provisions of the bills.

The area covered by this Act is about 30 miles long and two to three miles wide. It currently contains approximately 43,371 acres of land acquired by the BLM by deed dated March 6, 1986.

The San Pedro Area now includes 43,371 acres managed by the BLM for their many resource values under the broad mission given to the Bureau by the Federal Land Policy and Management Act of 1976 to manage land under principles of multiple use. Under these principles, appropriate attention is given to riparian values, wildlife habitat, soil, vegetation, watershed, historical, and cultural resources and recreational activities.

The area has a diverse wildlife population. Approximately 260 species of birds are thought to frequent the area, including about 20 raptor species. The most notable of these is the Gray Hawk. Big game species include mule and white-tailed deer and javelina. There are no known threatened or endangered species in the area.

The San Pedro area affords many opportunities for a variety of developed and diverse recreation activities. There are 122 known archeological sites within the area and numerous known sites adjacent to the area. There is a strong possibility that there are many more. The sites represent all stages of human occupation of the Southwest over an 11,000-year period. These provide a unique opportunity for interpretation.

There also are nine known vertebrate fossil sites, at least two of which are highly significant sites. There are numerous additional sites adjacent to the area. These paleontological sites provide an excellent opportunity for scientific research and development.

Currently grazing is permitted in the area.

The San Pedro area has many outstanding and varied resource values. Under S. 252 and H.R. 568 the BLM would have the responsibility of managing and protecting the area in a manner that will enhance public appreciation of the significant resources along the San Pedro River.

Proper management of the area, recognizing all the resource values found there, necessitates changes in the bills.

We do not favor the language in section 2(c) of the bills that would disallow new grazing permits for a period of 15 years. The preparation of the management plan will provide the opportunity for complete and thorough consideration of the impacts of livestock grazing. It is our belief that our professional managers on the ground with the guidance of the San Pedro Advisory Council can best make determinations for the wise management of this area.

We agree that the area should be closed to mining, as section 2(b) provides. However, we suggest that the section be amended to provide that the Secretary of the Interior may lease the lands under the Mineral Lands Leasing Act and the Geothermal Steam Act, and also that he may dispose of mineral materials under the Materials Act of 1947. These activities can be appropriately controlled through the land use planning process.

The bills would limit the use of motorized vehicles to roads specifically designated for such use as part of the management plan. We believe that this provision is too restrictive and that the use should be allowed on roads and areas designated as part of the plan. If, as part of the planning process, it is determined that areas as well as roads should be open, the bill would be too restrictive.

We believe that the most effective way to manage an area such as the San Pedro area is through the land use planning process which provides for a thorough examination and evaluation of an area, its resources, capabilities and potential and extensive public involvement. This is preferable to a legislative moratorium on specific activities that might, with proper management, be permitted in an area in a multiple use context. For instance, in Arizona BLM manages many riparian areas. In some, such as the San Simon watershed, mechanical means with dams and drop structures were utilized to recover the watershed and restore the riparian values;

ir others, such as Burro Creek, intensive livestock grazing allotment management plans were implemented and have resulted in excellent recovery of the riparian zone. In still others, we have limited livestock grazing by providing water outside the narrow canyons. Each riparian zone has been addressed individually utilizing the professional expertise of our agency, and full participation by State agencies and the public. So, too, we believe that the uses either permitted or denied in the San Pedro tract can and should be addressed through these procedures. However, these management decisions should be arrived at through the planning process with full participation by the experts in BLM, technical committees, the public and advisory committees. While the planning is taking place, the area is closed to public use, and permits are required.

We find the reporting provision in S. 252 and H.R. 568 to be burdensome and unnecessary, and suggest that section 6 be deleted from the bill. Information concerning the area is always available to the Congress without the necessity for a formal statutory reporting requirement.

We are proceeding under State water appropriation laws for necessary water to carry out the provisions of S. 252 and H.R. 568. We believe the State appropriation process is the proper way for the Federal Government to secure necessary water rights, and recommend that the bills be amended to reflect this requirement.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES E. CASON,
Acting Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 252, as reported.

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Calendar No. 961

100TH CONGRESS
2d Session

SENATE

REPORT
100-526

LEWIS AND CLARK NATIONAL HISTORIC TRAIL INTERPRETIVE CENTER, MONTANA

SEPTEMBER 22 (legislative day, SEPTEMBER 7), 1988.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1704]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1704) to authorize the establishment of the Lewis and Clark National Historic Site in the State of Montana, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FINDINGS.

The Congress finds that—

(1) the site at which the historic Lewis and Clark Expedition commenced in St. Louis, Missouri, and the site at which the expedition terminated at Fort Clatsop in Oregon have been recognized as sites of historic significance on the Lewis and Clark National Historic Trail; and

(2) the historic significance of the travels of Lewis and Clark on the High Plains and their portage around the Great Falls of the Missouri requires additional recognition and interpretation.

SEC. 2. ESTABLISHMENT.

(a) LEWIS AND CLARK NATIONAL HISTORIC TRAIL INTERPRETIVE CENTER.—That to further the public's understanding and provide appropriate interpretation of the scope and accomplishments of the Lewis and Clark Expedition, within the State of Montana and along the Lewis and Clark National Historic Trail, the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized to establish the Lewis and Clark National Historic Trail Interpretive Center (hereinafter in this Act referred to as the "Center".) The Secretary shall establish the Center upon the transfer by the State of Montana to the United States of the lands described in subsection (b) and such additional easements and other rights as the Secretary deems necessary to ensure adequate public access to the Center.

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(b) MAP.—The center shall consist of those lands, located in the vicinity of Great Falls, Montana, donated by the State of Montana, not to exceed fifty acres, as generally depicted on the map entitled "Boundary Map, Proposed Lewis and Clark National Historic Trail Interpretive Center," dated June 1980. The map shall be on file and available for public inspection in the offices of the Chief, United States Forest Service, Department of Agriculture, and the State of Montana Department of Fish, Wildlife, and Parks.

(c) REVERSION OF LANDS.—Any lands or portions of lands granted to the Secretary by the State of Montana for use in connection with the Center shall revert to the State of Montana if, at any time, the Secretary uses such lands for any purpose other than those authorized under this Act.

SEC. 3. ADMINISTRATION.

(a) AUTHORIZATION.—The Secretary shall administer the Center in accordance with this Act and the laws, rules, and regulations applicable to the national forests in such manner as will best provide for the interpretation of the scope and accomplishments of the Lewis and Clark Expedition, along the Lewis and Clark National Historic Trail within the State of Montana. In no event shall the Center be used for purposes other than those provided for by this Act.

(b) PLAN.—Within two years after the establishment of the Center, the Secretary shall prepare and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the Senate, a plan for the development and interpretation of the Center. Such plan shall include but not be limited to provisions for—

(1) interpretation to the public of available historic resources, documents, and artifacts associated with the Lewis and Clark Expedition, and

(2) development of facilities for public use and enjoyment of the area.

(c) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(d) COOPERATIVE AGREEMENTS.—In administering the Center, the Secretary is authorized to enter into cooperative agreements with the State of Montana, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and firefighting departments or agencies. The Secretary is also authorized to enter into cooperative agreements with other Federal agencies, and with State or local public agencies for the development and operation of facilities and services in furtherance of the purposes of this Act. The Secretary is encouraged to develop, in conjunction with the State of Montana, a cooperative management plan for the entire Giant Springs Park which will enhance the general public's opportunity to use and enjoy the Center as well as the nearby historical sites, and other State and Federal lands.

(e) COOPERATING ASSOCIATION.—The Secretary is authorized and directed to enter into an agreement with the Portage Route chapter of the Lewis and Clark Heritage Foundation or a similarly affiliated organization to provide educational and interpretive materials to the public that highlight the travels of Lewis and Clark, High Plains Indians, explorers, or other historical features of the area, that are compatible with the purposes of the Center. Such agreement shall include but not be limited to each of the following:

(1) Provisions requiring the Foundation to obtain and maintain its status as a nonprofit tax-exempt organization.

(2) A provision permitting the Secretary to have access to the documents and records of the Foundation that involve the Center.

(3) The Foundation shall agree to return to the Center the profits earned from the sale of educational and interpretive materials.

(4) Minimum operating requirements and procedures for the sale of educational and interpretive materials at the Center.

(5) A procedure to settle disagreements between the Foundation and the Secretary.

(6) Reasonable rent and maintenance costs for the use of an area within the Center.

(7) Other items of mutual agreement.

The Secretary may terminate the agreement for good cause.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), there is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this

Act, including such sums as may be necessary for the planning and designing of, and site preparation for, the Center and associated structures and improvements.

(b) CONSTRUCTION OF INTERPRETIVE CENTER.—There is hereby authorized to be appropriated not more than $3,500,000 for the construction of the Lewis and Clark National Historic Trail Interpretive Center and associated structures and improvements.

(c) Any new spending authority described in subsection (c)(2)(A) of section 401 of the Congressional Budget Act of 1974 which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 5. MISSOURI RIVER WILD AND SCENIC RIVER.

Subsection (g) of section 203 of the Act approved October 12, 1976 (90 Stat. 2327, 2329), is amended as follows:

(1) Strike out "except" in paragraph (1)(G) and insert in lieu thereof "including".

(2) Strike out "National Park Service" in paragraph (2) and insert in lieu thereof "Bureau of Land Management".

2. Amend the title so as to read:

A bill to authorize the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the State of Montana, and for other purposes.

PURPOSE OF THE MEASURE

The purpose of S. 1704, as amended, is to establish a Lewis and Clark National Historic Trail Interpretive Center in the State of Montana.

BACKGROUND AND NEED

The Lewis and Clark Expedition is one of the most significant episodes in the exploration of America. For a 28 month period from 1804–1806 the expedition, under the direction of Merriwether Lewis and William Clark, traveled over 8,000 miles exploring and chronicling the vast land and resources of the recently acquired Louisiana territory. The expedition passed through parts of 11 present-day states undertaking a geographic, scientific and geopolitical exploration that has been hailed for its scope and achievements. It was at the Great Falls of the Missouri River in Montana that the expedition was forced to spend nearly a month portaging 18 miles around the massive falls.

LEGISLATIVE HISTORY

Senators Melcher and Baucus introduced S. 1704 on September 22, 1987. A similar measure, H.R. 1982, passed the House on July 26, 1988. A hearing has not been held before the Subcommittee on either measure.

At the business meeting on Thursday, September 15, 1988, the Senate Committee on Energy and National Resources ordered S. 1704, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Commitee on Energy and National Resources, in open business session on Thursday, September 15, 1988, by unanimous vote of a quorum present, recommends that the Senate pass S. 1704 if amended as described herein.

The rollcall vote on reporting the measure was 17 years, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford*	
Mr. Melcher	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski*	
Mr. Nickles*	
Mr. Hecht	

*Indicates voted by proxy.

Committee Amendments

During consideration of this measure, the Committee adopted an amendment in the nature of a substitute. The substitute amendment is the language of the House-passed bill. The primary effect of this amendment is to change the focus of the bill from establishing the Lewis and Clark National Historic Site to the authorization of the establishment of the Lewis and Clark National Historic Trail Interpretive Center. A more detailed description of the substitute is found in the Section-by-Section analysis portion of this report.

Section-by-Section Analysis

Section 1 provides the findings of the Congress.

Section 2 authorizes the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the vicinity of Great Falls, Montana. It provides that establishment of the Center shall occur upon the transfer of lands by the State of Montana as depicted on the described boundary map. Further, it provides for the reversion of the donated lands to the State of Montana if at any time such land is used for purposes other than those authorized by this Act.

Section 3(a) directs the Secretary of Agriculture to administer the Center in accordance with the Act and other laws and regulations applicable to national forests that will best provide for the interpretation of the scope and accomplishments of the Lewis and Clark Expedition on the High Plains of Montana.

Section 3(b) provides that the Secretary shall, within two years, prepare a plan for the development and interpretation of the center.

Section 3(c) authorizes the Secretary to accept the donation of funds, property and services to further the purposes of this Act.

Section 3(d) authorizes the Secretary to enter into cooperative agreements for firefighting and law enforcement services, as well as agreements for the development and operation of facilities and services in furtherance of this Act.

Section 3(e) authorizes and directs the Secretary to enter into a cooperative agreement with a qualified third party to provide educational and interpretive materials to the public at the Center, provided that the stipulations provided for in the Act are met.

Section 4(a) authorizes such sums as may be necessary to carry out the proposes of this Act.

Section 4(b) authorizes not more than $3.5 million for construction of an interpretive center and associated structures and improvements at the site.

Section 4(c) brings the bill into conformity with section 401 of the Congressional Budget Act of 1974. Section 401 requires that any contracts entered into by the government shall be effective only if provided for in advance in the appropriations process.

Section 5 of the bill would amended the Act that designated the Missouri River as a component of the National Wild and Scenic Rivers System by authorizing the Bureau of Land Management, instead of the National Park Service as is the case under existing law, to construct and operate a visitor information and interpretive facility in or near Fort Benton.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaulation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1704. The bill is not a regulatory measure in the sense of imposing Government-established standards or singificant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1704, as reported.

Executive Communications

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating to S. 1704 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, February 2, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department regarding S. 1704, a bill "To authorize the establishment of the Lewis and Clark National Historic Site in the State of Montana."

The Department of Agriculture defers to the Department of the Interior for a recommendation on whether S. 1704 should be enacted, since this bill would not affect this Department's programs or National Forest System lands.

S. 1704 would establish the Lewis and Clark National Historic Site to preserve and interpret the historic site where Lewis and Clark portaged around the Great Falls of the Missouri River. The historic site would be established by the Secretary of the Interior upon the transfer by the State of Montana to the United States of up to 50 acres as deemed necessary by the Secretary to ensure public access to the site. The Secretary would manage the site in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). Up to $5 million would be authorized for the construction of a visitor center and associated facilities.

S. 1704 would also make minor amendments to the Wild and Scenic Rivers Act. These amendments only affect the Department of the Interior.

The Department of the Interior testified October 20 before the House Subcommittee on National Parks and Public Lands on H.R. 1982, a bill identical to S. 1704. At that time, they opposed enactment because "it duplicates authority already available under the National Trails System Act, and is unnecessarily costly."

The Forest Service is involved in the management of the Lewis and Clark National Historic Trail as it crosses national forest lands. We also manage the Lolo Pass Visitor Information Center, the only major visitor information center in the Northern Rockies with a primary focus on the Lewis and Clark expedition. We cooperate with the Bureau of Land Management in their program of managing and interpreting the Missouri Wild and Scenic River at Fort Benton, about 35 miles downstream from Great Falls.

The supervisor's office for the Lewis and Clark National Forest is located in Great Falls. We are available to work cooperatively with the State and the National Park Service or the Bureau of Land Management in interpretation or visitor information services in the Great Falls area.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

PETER C. MYERS,
Acting Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 1704, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF OCTOBER 12, 1976

(90 Stat. 2327, 2329)

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SEC. 203. (a) * * *

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(g)(1) The Secretary, acting through the Bureau of Land Management, shall exercise management responsibilities in the river area for:

(A) the grazing of livestock:

(B) the application of the United States mining and mineral leasing laws:

(C) the management of fish and wildlife habitat;

(D) the diversion and use of water for agricultural and domestic purposes;

(E) the acquisition of lands and interests therein;

(F) the administration of public recreational uses of, and any historic sites and campsites in, the river area; and

(G) all other management responsibilities **[**except**]** *including* those set forth in paragraph (2) of this subsection.

(2) The Secretary, acting through the **[**National Park Service**]** *Bureau of Land Management,* shall be responsible for the construction, operation, and management of any visitor facility in or near Fort Benton which is found necessary in accordance with the management plan developed pursuant to section 202 and the provision, at such facility, of interpretive services for the historic, archeological, scenic, natural, and fish and wildlife resources of the area.

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